

BCI objects to certain of Sysmex's redactions to Exhibit 1

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SYSMEX CORPORATION and	:	
SYSMEX AMERICA, INC.,	:	
Plaintiffs,	:	Civil Action No.
v.	:	19-1642-RGA-CJB
BECKMAN COULTER, INC.,	:	
Defendant.	:	Volume I

Videotaped remote deposition of Masanori Imazu

September 27, 2021

2007 UTC

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

Job No.: 1094064

Pages: 1 - 70

Reported By: Alan H. Brock, RDR, CRR

1 A. Yes. 17:31

2 Q. Are there any documents of which you are 17:31
3 aware that would indicate that you are the one who 17:31
4 conceived of an automatic way to clean blood cells 17:31
5 in a measurement device? 17:31

6 A. No, I don't recall any documents that 17:32
7 indicates that fact. 17:32

8 Q. Okay. Sir, let me show you a document that 17:32
9 was provided to us by Sysmex as part of the legal 17:32
10 proceeding, and it's entitled Plaintiff Sysmex 17:32
11 Corporation's Second Supplemental Responses to 17:32
12 Beckman Coulter, Inc.'s First Set of Interrogatories 17:32
13 No. 1. It should be on the share box. And I'd like 17:32
14 to show you a couple of pages from this document. 17:33

15 THE VIDEOGRAPHER: Counsel, do you have 17:34
16 a name that I can refer to? 17:34

17 MR. MUELLER: Yeah. It's SCorp's Second 17:34
18 Supplemental Rog. Response No. 1. And let's mark it 17:34
19 as Exhibit 171. 17:34

20 (DDX Exhibit 171 marked for 17:34
21 identification.) 17:35

22 Q. Do you see Defendant's Exhibit 171, Mr. 17:35
23 Imazu? 17:35

24 A. Yes, I can see it. 17:35

25 Q. And I'd like to refer you first to Page 4 17:35
[REDACTED]

1 of the document, which is a supplemental response -- 17:35
2 or a second supplemental response. 17:35

3 And do you see the third sentence, which 17:36
4 says, "The named inventors of the '350 and '351 17:36
5 patents, Takaaki Nagai, Noriyuki Narisada, Daigo 17:36
6 Fukuma, and Masanori Imazu, were all involved with 17:36
7 and worked together in the development of the 17:36
8 XE-5000"? 17:36

9 A. Yes, I see the sentence that shows what you 17:37
10 said. 17:37

11 Q. Do you agree with that statement? 17:37

12 A. When you say "that statement," are you 17:37
13 referring to the sentence that you just referred to 17:37
14 earlier? 17:37

15 Q. Yes. Do you agree with the sentence, "The 17:37
16 named inventors of the '350 and '351 patents, 17:37
17 Takaaki Nagai, Noriyuki Narisada, Daigo Fukuma, and 17:37
18 Masanori Imazu, were all involved with and worked 17:38
19 together in the development of the XE-5000"? 17:38

20 A. Yes. 17:38

21 Q. Do you also agree with the next sentence, 17:38
22 that "Mr. Imazu was the team leader until sometime 17:38
23 during the summer/early fall of 2006"? 17:38

24 A. Yes. 17:39

25 Q. Do you agree with the next sentence, that [REDACTED] 17:39

1 "Mr. Imazu's contributions included development and
2 work on the body fluid mode functionality and
3 operation in the XE-5000"?

4 A. I'm sorry, can you actually point to which
5 sentence that was again?

6 THE INTERPRETER: Shall I point to him,
7 as an interpreter?

8 MR. MUELLER: Yes.

9 A. Yes, I agree.

10 Q. Do you also agree that "Mr. Nagai took over
11 as the leader of the XE-5000 development team at the
12 time"?

13 MR. SOBIERAJ: Objection to the form of
14 the question, lack of foundation.

15 I'm sorry, I withdraw my objection.

16 A. Yes, I agree.

17 Q. And so, to summarize, you agree that Mr.
18 Nagai took over as the leader of the XE-5000
19 development team sometime in the summer/early fall
20 of 2006? Is that right?

21 A. Yes, that is my recollection.

22 Q. Now, did you continue to work on the
23 XE-5000 team after Mr. Nagai took over as the leader
24 of the development?

25 A. Actually, no. Once I left the position as
[REDACTED]

1 the leader of the XE-5000 project, I also left the 17:44
2 project as well. 17:44

3 Q. Did you continue to check in from time to 17:44
4 time to see how the team was doing? 17:44

5 A. No, I don't remember doing such a thing. 17:45

6 Q. Now, you see in the next sentence where the 17:45
7 statement is made that Mr. Nagai's contributions 17:45
8 included measurement time considerations in the 17:45
9 XE-5000 in connection with work on the body fluid 17:45
10 measurement functionality? 17:45

11 A. Yes, I see that sentence. 17:46

12 Q. Do you recall Mr. Nagai working on 17:46
13 measurement time considerations in connection with 17:46
14 the body fluid measurement functionality while you 17:46
15 were the team leader? 17:46

16 A. Whether Mr. Nagai was involved in any way 17:46
17 in terms of the time consideration in connection 17:47
18 with the functionality of the body fluid measurement 17:48
19 mode I don't remember. 17:48

20 Q. But you don't recall that Mr. Nagai was 17:48
21 working on measurement time considerations on the 17:48
22 body fluid measurement functionality while you were 17:48
23 the project leader; correct? 17:48

24 MR. SOBIERAJ: Objection to the form of 17:48
25 the question. 17:49

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SYSMEX CORPORATION and :
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Defendant. : Volume II

Continued videotaped remote deposition of

Masanori Imazu

September 28, 2021

1955 UTC

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

Job No.: 1094080

Pages: 71 - 151

Reported By: Alan H. Brock, RDR, CRR

1 answer.

16:15

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16:16

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16:16

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16:16

5 MR. SOBIERAJ: Objection, lack of
6 foundation.

16:16

7 A. Can you repeat the names of the three
8 people again, please?

16:17

9 Q. Sir, referring to the last page of

16:17

10 Defendant's Exhibit 173: [REDACTED]

16:17

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16:17

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16:17

13 MR. SOBIERAJ: Objection, lack of
14 foundation.

16:17

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16:18

20 A. No, because I do not remember about this
21 attachment file, as far as who these three people
22 are listed on the bottom of this page, I am not able
23 to answer.

16:19

16:19

16:19

24 Q. In 2005, when you would have received this
25 communication, you would not have believed these

16:19

16:19

1 individuals to have been employees of Sysmex Corp.; 16:19
2 correct? 16:19

3 MR. SOBIERAJ: Objection, lack of 16:20
4 foundation and form. 16:20

5 A. I wasn't able to understand your question 16:20
6 too well, so can you repeat it again, please? 16:20

7 Q. Do you believe that when you received this 16:20
8 email and attachment in 2005 you would have 16:20
9 understood the authors of the attachment to have 16:21
10 been employees of Sysmex Corp.? 16:21

11 MR. SOBIERAJ: Objection, lack of 16:21
12 foundation and form. 16:21

13 A. Well, I do not remember about this email 16:22
14 and the attachment file, I do not know about these 16:22
15 three people, and therefore I am not able to answer. 16:22

16 Q. So your testimony today is that you have no 16:22
17 recollection of [REDACTED]? 16:22

18 A. Yes, that is correct. I do not know -- I 16:23
19 do not know this person, [REDACTED]. 16:23

20 Q. And you also do not know [REDACTED]? 16:23

21 A. Yes, that is correct. I do not know this 16:23
22 person, [REDACTED]. 16:23

23 Q. And you have no recollection of 16:23
24 [REDACTED]? 16:23

25 A. Yes, that is correct. I have absolutely no 16:24
[REDACTED]

1 recollection.

2 Q. And the same with [REDACTED]? I presume

3 you have no recollection of [REDACTED]?

4 A. Yes, that is correct. I do not know this
5 person, [REDACTED].

6 Q. Is it also your testimony that you have no
7 recollection of [REDACTED]?

8 A. Yes, that is correct. I do not have any
9 recollection of this [REDACTED].

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 MR. SOBIERAJ: Objection, lack of
14 foundation.

15 A. Right, I do not know this [REDACTED].

16 Q. And you would not have known who [REDACTED]
17 [REDACTED] was in 2005? Is that your testimony?

18 A. Since I have absolutely no recollection of
19 this name [REDACTED], I am not able to answer.

20 Q. And the attachment in Defendant's Exhibit
21 173 does not refresh your recollection at all; is
22 that correct?

23 A. That is correct. I have no recollection of
24 [REDACTED].

25 Q. But you do have a recollection of a

1 (DDX Exhibit 178 marked for
2 identification.)

3 MR. SOBIERAJ: Is there also a
4 translation?

5 MR. MUELLER: Yeah, I think those were
6 marked. Or --

7 THE VIDEOGRAPHER: I just uploaded them.

8 Q. Have you had a chance to review Exhibit
9 178, Mr. Imazu?

10 A. Yes, I can see it right now.

11 Q. This is an email from you?

12 A. Yes, I can confirm that my name is listed
13 in the "from" section.

14 Q. And the email is dated January 31st, 2014;
15 correct?

16 A. Yes, I can confirm that in the "sent"
17 section the date is listed as January 31st, 2014.

18 Q. Can you also confirm that the email
19 reflects your understanding of why you should have
20 been named an inventor on what became the patents-
21 in-suit?

22 A. Yes, I can confirm that that is what is
23 described in here.

24 Q. And can you read into the record beginning
25 at the fifth line down through the ninth line of the
[REDACTED]

1 email? 22:03

2 A. When you say the fifth line, which part do 22:03

3 I start with? 22:03

4 Q. If I could read Japanese, I would tell you. 22:03

5 The text that begins after the 22:03

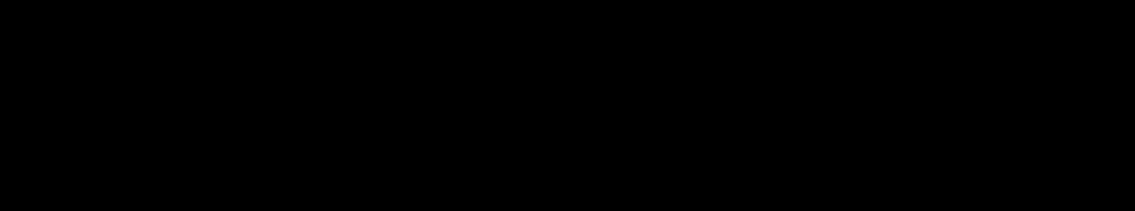
6 hyperlink. 22:03

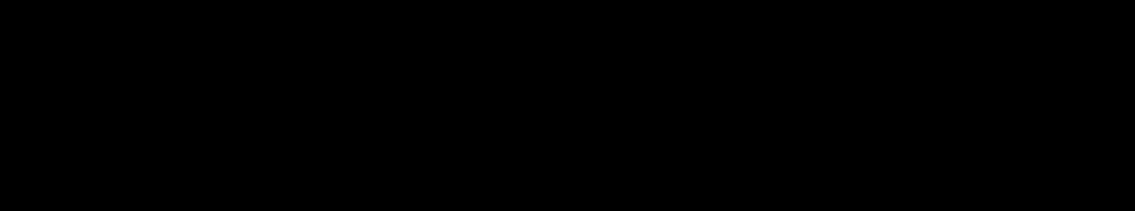
7 A. So that will be the sentence right -- that 22:04

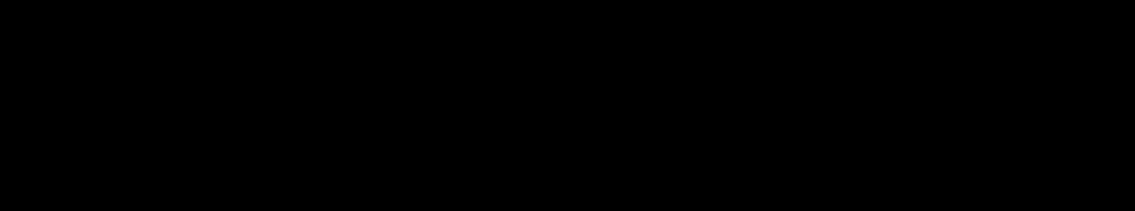
8 follows right after the link; right? 22:04

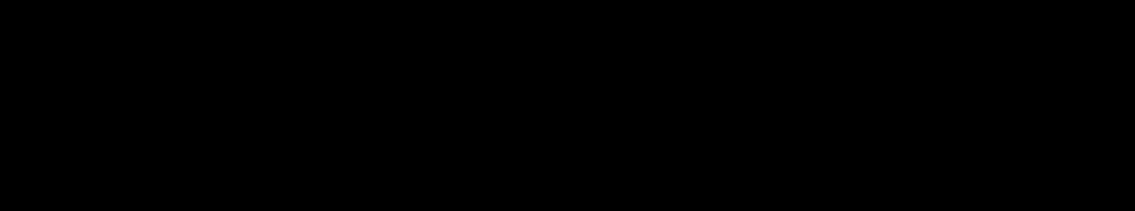
9 Q. Correct. 22:04

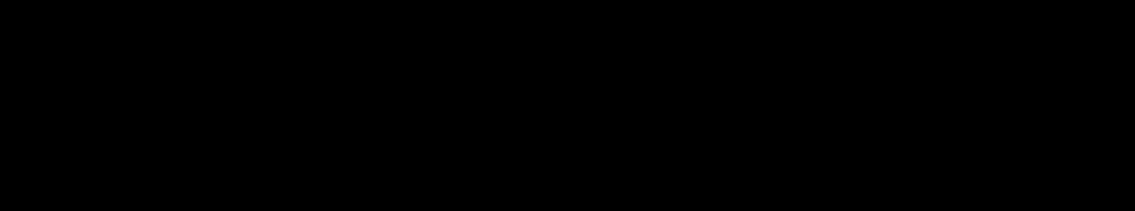
10  22:06

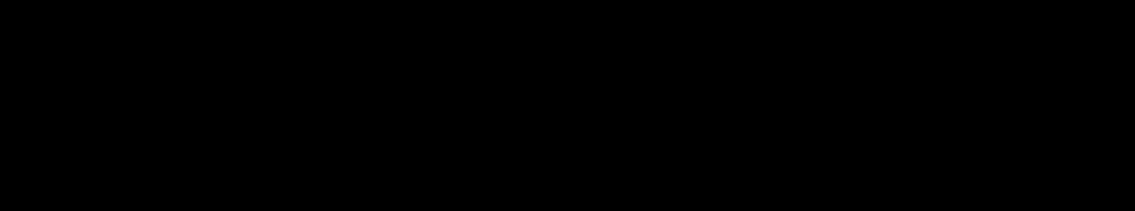
11  22:06

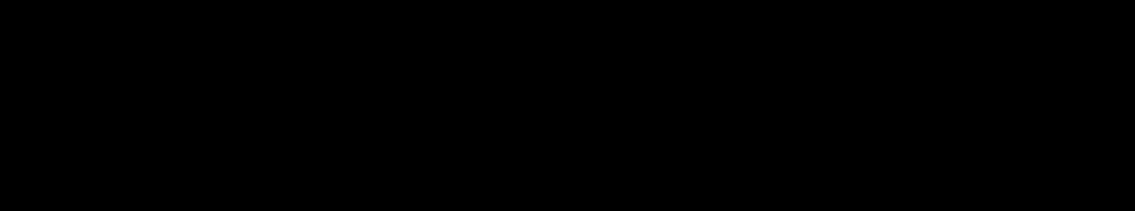
12  22:06

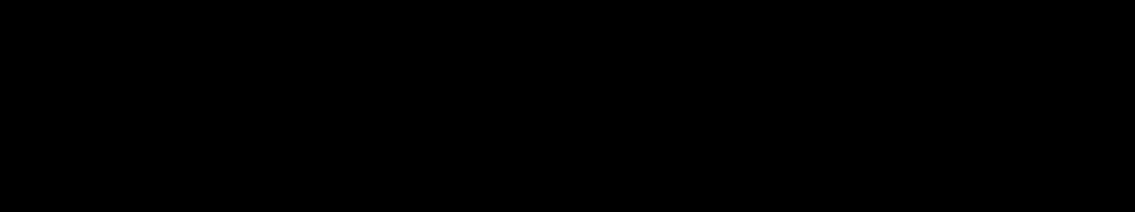
13  22:06

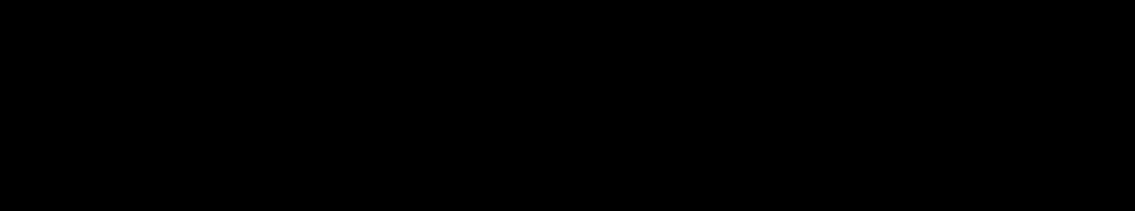
14  22:06

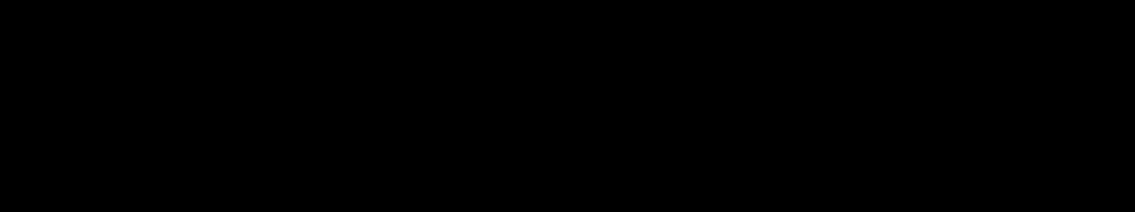
15  22:06

16  22:07

17  22:07

18  22:07

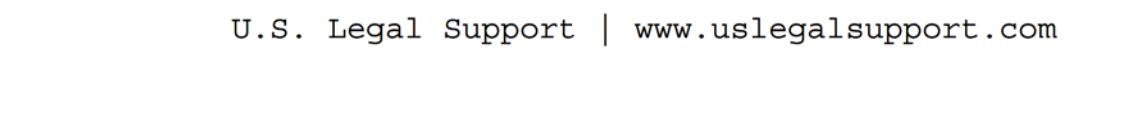
19  22:07

20  22:07

21  22:07

22  22:07

23  22:07

24  22:07

25  22:07

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4 Q. Now, is the explanation --

5 MR. SOBIERAJ: Wes, I think we're over
6 the amount of available time you have. I'll allow
7 you to ask a few more questions, but then we need
8 to --

9 MR. MUELLER: I'm going to try -- I'll
10 try and wrap it up. Thanks, counsel.

11 Q. Now, my question, Mr. Imazu, is whether the
12 explanation that you just read from Exhibit 178 is
13 consistent with your recollection of your
14 contribution to the conception of the subject matter
15 of the '350 and '351 patents?

16 MR. SOBIERAJ: Objection to the form of
17 the question.

18 A. Not that I remember the specifics of this
19 email. But I believe overall they are consistent,
20 and that is my recollection.

21 MR. MUELLER: And let me ask the court
22 reporter to quickly move over Exhibit JJ and mark
23 that as Exhibit 179.

24 MR. SOBIERAJ: I'm not going to -- we're
25 over the time limit, counsel. I'm not going to